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| PARCEL C PROPERTY, LLC, | * | BEFORE THE |
| PETITIONER | * | PLANNING BOARD OF |
| | * | HOWARD COUNTY, MD |
| PLANNING BOARD CASE NO. 407 | * | |
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DECISION AND ORDER¹

On October 2, 2014, the Planning Board of Howard County, Maryland, in accordance with Section 125.0.E.4 of the Howard County Zoning Regulations, held a public hearing to consider the petition of Parcel C Property, LLC for approval of an Amended Final Development Plan for Downtown Revitalization (FDP-DC-Warfield-1A, Warfield Neighborhood Phase 1, Parcels C & D) for a minor modification to the previously approved FDP-DC-Warfield-1, a development of mixed use residential and retail, including a total of 817 multi-family residences and 76,098 square feet of retail (including restaurant uses) on 10.23 acres of land zoned New Town (NT) and designated as Downtown Mixed Use Area per the Downtown Columbia Plan, and for the approval of land for the use of a temporary parking lot on 2.59 acres zoned New Town (NT) and designated as Downtown Mixed Use Area per the Downtown Columbia Plan. The modification is limited to an update of the allocation and block development chart in order to properly reflect the number of units proposed per block/phase as reallocated and approved per WP-13-095 by the Department of Planning and Zoning on January 14, 2013. The total number of residential units for Parcels C and D is unchanged from FDP-DC-Warfield-1 (817 units). The square footage of allowed retail/restaurant is also unchanged. No changes are proposed for Lot 39. The subject sites are located on the south and east side of Broken Land Parkway in the Fifth

¹ This Decision and Order has been updated to correct clerical errors on Pages 2 and 4 to reflect Parcel C-1 as receiving the 10 allocations from Parcel D as presented to Planning Board.

Election District of Howard County, Maryland, identified as Tax Map 36, Grid 1, Parcel 382, Parcels C and D, and west of Little Patuxent Parkway and south of Governor Warfield Parkway on the east side of the Mall Entrance Drive also in the Fifth Election District of Howard County, Maryland, identified as Tax Map 36, Grid 1, Parcel 460, Lot 39.

The notice of the public hearing was published and the subject property was posted in accordance with the Planning Board's requirements, as evidenced by certificates of publication and posting, all of which were made a part of the record of the case.

Pursuant to the Planning Board's Rules of Procedure, the reports and official documents pertaining to the Petition were incorporated into the record of the hearing, including the proposed Amended Final Development Plan (FDP-DC-Warfield-1A), the Howard County Code, the Downtown Columbia Plan (a General Plan Amendment), the Howard County Zoning Regulations, the Adequate Public Facilities Act, the Howard County Design Manual (Volume 3, Chapter 4), the Howard County Sign Ordinance, the Technical Staff Report of the Department of Planning and Zoning, and the reports of the responding reviewing agencies.

Todd Brown, Esq., represented the Petitioner, Parcel C Property, LLC. No one testified in opposition to the petition. After careful evaluation of all the evidence accepted into the record, the Planning Board makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Jill Manion-Farrar of the Department of Planning and Zoning ("DPZ") summarized DPZ's Technical Staff Report, which explained the purpose of the amendment for a minor change in the Allocation and Block Development Chart to reflect a reallocation of 10 dwelling units not used in the Parcel D property to Parcel C-1¹ as approved per WP-13-095. The total number of dwelling

units allocated does not change from the originally approved Final Development Plan. The Department of Planning and Zoning found conformance of the proposed Amended Final Development Plan with the Downtown Columbia Plan and recommended approval of the proposed Amended Final Development Plan, FDP-DC-Warfield-1A, as submitted, subject to compliance with the Subdivision Review Committee (SRC) comments.

The Planning Board finds that the Department of Planning and Zoning's evaluations, finding, and conclusions that the Petitioner met the criteria for approval of the Amended Final Development Plan pursuant to Section 125.0.E.4. of the Zoning Regulations, based on its submissions and modifications pursuant to Section 125.0.E.3. of the Zoning Regulations, to be convincing and persuasive, and adopts DPZ's report as its own in making the findings of fact and conclusions contained in this decision.

2. Todd Brown spoke on behalf of the petitioner. He reiterated that there was a minor shift in units as well as a 50,000 sf shift between Parcel C-1 and C-2, but the overall total number of units and square footage does not change from the previously approved Final Development Plan. Mr. Brown entered a copy of the PowerPoint Presentation to be presented by Kevin Peterkin as Exhibit 1, a copy of the Decision and Order for Planning Board Case 392/FDP-DC-Warfield-1 signed by Planning Board on May 24, 2012 as Exhibit 2, and a copy of the previously approved FDP-DC-Warfield-1 as Exhibit 3. Mr. Brown then introduced Kevin Peterkin as a representative of the petitioner.
3. Kevin Peterkin, Director of Real Estate Investment and Development at Kettler testified as a representative of the Petitioner. He testified that the proposed development for Parcels C and D will remain as proposed in the original FDP-DC-Warfield-1 Final Development Plan, with the only change being the reallocation of 10 units originally proposed in Parcel D to be reallocated to Parcel

C-1¹. Mr. Peterkin also explained that the reallocation of 50,000 sf of gross residential floor area from C-2 to C-1 is to all for larger units in the Parcel C-1 property to respond to market demand and to diversify the three mixed-use products being developed.

These modifications are summarized in DPZ's Technical Staff Report (pages 4 and 5).

In response to a question by Planning Board member Josh Tzucker, Mr. Peterkin affirmed that there is a no change in the maximum height proposed for the buildings in Parcel C-1, Parcel C-2, and Parcel D.

In response to a question by Vice Chairperson Bill Santos, Mr. Peterkin explained that the reallocation of dwelling units between the three parcels does not change the overall required contribution amount for the affordable housing obligations. Regarding CEPPA #11, which requires Howard Hughes Corporation to contribute \$1.5 million in additional funding for the Downtown Columbia Community Housing Fund with the issuance of the building permit 400th residential unit built in Downtown Columbia, Mr. Peterkin further explained that while there are 10 less units constructed in Parcel D than the approved Final Development Plan allowed, Parcel D was never to meet the threshold. Therefore, the schedule of construction does not change in a way that ultimately alters the timing of when CEPPA #11 will be fulfilled.

In response to a question by Vice Chairperson Bill Santos regarding the proposed demographic target of each of the buildings on C-1 and C-2 and which demographic (young residents or older residents) would receive the additional square footage, Mr. Peterkin responded that the additional square footage would go to Building C-1, which would have larger units with multiple bedrooms and would be marketed to an older demographic.

4. No one present at the public hearing testified in opposition of the proposed amendment to the Final Development Plan and no protestant testimony was entered into the record.

5. The Board finds that the Petitioner has established that its proposed Amended Final Development Plan satisfies all the criteria of section 125.0.E.4.a. through o., and the Board makes the following findings of fact on these criteria based on the evidence in the record, including the evaluations, findings and conclusions of the DPZ as contained in its Technical Staff Report, which the Board adopts as its own, as provided below:

a. Pursuant to Section 125.0.E.4.a-b, the previously approved Downtown Neighborhood Concept Plan (Plat #22008-22011), the Warfield Neighborhood Specific Design Guidelines (Liber 14166, Folio 001-250), and the Neighborhood Specific Implementation Plan (Liber 14166, Folio 251-288), collectively known as “the Neighborhood Documents”, which were previously found to conform with the Downtown Columbia Plan in accordance with Section 125.0.A.2.b.(1)-(6) of the Zoning Regulations, as outlined in the Decision and Order for PB Case 394, and thereby recorded into the Land Records of Howard County, remain effective for FDP-DC-Warfield-1A by reference on the Amended Final Development Plan. The Board makes this finding in recognition of the fact that pursuant to Section 125.0.E.3.a. of the Zoning regulations. Neighborhood Documents are only binding on property included within the boundaries of Amended Final Development Plan FDP-DC-Warfield-1A, and only provides a context for evaluation of the initial FDP and guidance for future FDP petitions within the delineated plan area.

b. This Amended Final Development Plan remains in conformance with previously approved Neighborhood Concept Plan, Neighborhood Design Guidelines, and Neighborhood Implementation Plan, which provide a context for evaluation but are only binding on properties within the boundaries of the Final Development Plan, FDP-DC-Warfield-1A. The Final Development Plan continues to conform with the Revitalization Phasing Plan, and the

Downtown Community Enhancements Programs, and Public Amenities (CEPPA) Implementation Chart. All applicable CEPPAs have been fulfilled as required for the approval of this amended Final Development Plan.

c. The Planning Board finds the minor changes to the Allocation and Block Development Chart as proposed on the Amended Final Development Plan, FDP-DC-Warfield-1A has no impact on the overall development approved on the previously approved Final Development Plan and continues to meet the criteria in Section 125.0.E.4.a-o of the Zoning Regulations.

d. The development proposed with the Amended Final Development Plan will satisfy the affordable housing requirement through the installment of a \$1.5 million payment by Howard Hughes Corporation for the funding of the Downtown Columbia Community Housing Fund as required by CEPPA #11, based on the testimony of Mr. Peterkin as summarized in Finding of Fact #3.

e. The Final Development Plan continues to be in harmony with existing and planned vicinal land uses based on the testimonies of Mr. Brown and Mr. Peterkin as summarized in Findings of Fact 2 and 3, petitioner's exhibits and DPZ's Technical Staff Report, all of which the Board finds convincing.

f. The development proposed by the Final Development Plan will be served by Adequate Public Facilities for schools based DPZ's Technical Staff Report, which the Board finds convincing.

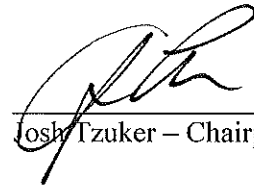
CONCLUSIONS OF LAW

The Petitioner has satisfied all of the criteria for the consideration of Final Development Plan petitions to be considered by the Planning Board in accordance with Section 125.0.E.4 of the Howard County Zoning Regulations based on the Board's findings of fact provided above and as outlined in the

Technical Staff Report of the Department of Planning and Zoning. Therefore, in accordance with the testimony given and evidence in the record and based on the Findings of Facts and Conclusions of Law for Planning Board Case No. 407, the petition of Parcel C Property, LLC for approval of Amended Final Development Plan FDP-DC-Warfield-1A is this 14th day of November, 2014, **APPROVED** by the Planning Board of Howard County, subject to the following conditions:

1. The petitioners must adequately address all remaining technical comments provided by the Subdivision Review Committee in the letter dated June 27, 2014.

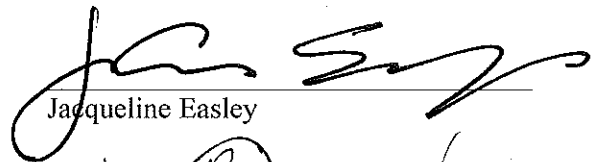
HOWARD COUNTY PLANNING BOARD



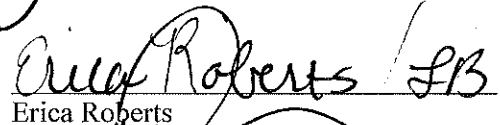
Josh Tzucker – Chairperson




Bill Santos, vice Chairperson



Jacqueline Easley

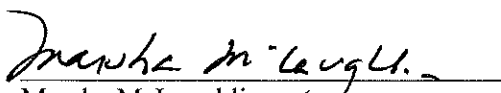


Erica Roberts

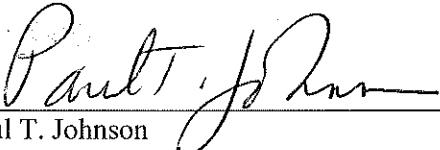


Phil Engelke

ATTEST:


Marsha McLaughlin
Executive Secretary

REVIEWED FOR LEGAL SUFFICIENCY BY:
HOWARD COUNTY OFFICE OF LAW
MARGARET ANN NOLAN, COUNTY SOLICITOR



Paul T. Johnson
Deputy County Solicitor

Attachment 1

LIST OF PETITIONER'S EXHIBITS

**PB-407 (FDP-DC-Warfield-1A), Downtown Columbia, Warfield Neighborhood,
Phase 1, Parcels C and D**

1. Parcel C Property, LLC PowerPoint Presentation
2. Copy of Approved Decision and Order for FDP-DC-Warfield-1 signed May 24, 2012
3. Coy of approved FDP-DC-Warfield-1, Parcels C and D approved July 12, 2012

LIST OF PROTESTANT'S EXHIBITS

None